

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:16-CV-18-D

FREDRIC N. ESHELMAN,

Plaintiff,

v.

PUMA BIOTECHNOLOGY, INC.,

Defendant.

ORDER

On July 27, 2017, Puma Biotechnology, Inc. ("Puma" or "defendant") appealed Magistrate Judge Jones's order of July 13, 2017 [D.E. 130] and filed a memorandum in support [D.E. 131]. In the order, Judge Jones held that Fredric N. Eshelman ("Eshelman") need not prepare a privilege log of documents concerning a proxy contest [D.E. 122]. On August 10, 2017, Eshelman responded in opposition [D.E. 134]. As explained below, the court affirms the order.

This court can modify or set aside a magistrate judge's order if the order is "clearly erroneous" or "contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). As Judge Jones correctly explained, the Joint Discovery Plan that the parties submitted and that the court approved dooms Puma's argument. See [D.E. 122] 4–7. Moreover, the requested information is not

proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Fed. R. Civ. P. 26(b)(1).

The order of July 13, 2017 [D.E. 122] is **AFFIRMED**, and defendant's appeal [D.E. 130] is **DENIED**.

SO ORDERED. This 1 day of February 2018.


JAMES C. DEVER III
Chief United States District Judge